

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

EYESMATCH LTD., AND MEMOMI LABS
INC.,

Plaintiffs,

v.

FACEBOOK, INC., INSTAGRAM, LLC, AND
WHATSAPP INC.

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs EyesMatch Ltd. (“EyesMatch”) and Memomi Labs Inc. (“Memomi”) (collectively “Plaintiffs”), by and through their attorneys, file this Complaint for Patent Infringement against Defendant Facebook, Inc. (“Facebook”), Defendant Instagram, LLC (“Instagram”), a wholly-owned subsidiary of Facebook, and Defendant WhatsApp Inc. (“WhatsApp”), a wholly-owned subsidiary of Facebook (collectively “Defendants”), and allege as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to end Defendants’ unauthorized infringing manufacture, use, sale, and/or offer to sell in the United States; importation into the United States without authority; and performance in the United States without authority every step of Plaintiffs’ patented inventions by using products, services, devices, systems, and/or components of systems that embody Plaintiffs’ patented inventions.
2. Plaintiffs own all substantial rights and interest in the Asserted Patents described below, including the exclusive right to sue Defendants for infringement and recover damages.

3. In violation of Plaintiffs' rights in the Asserted Patents, Defendants make, use, sell, and/or offer to sell in the United States without authority; import into the United States without authority; and perform in the United States without authority every step of the patented inventions by using products, services, devices, systems, and/or components of systems that embody the patented inventions. Plaintiffs seek, *inter alia*, monetary damages and prejudgment interest for Defendants' infringement of the Asserted Patents.

THE PARTIES

4. Plaintiff EyesMatch is incorporated under the laws of the British Virgin Islands with its principal place of business in 19 Waterfront Drive, P.O. Box 3540, Road Town, Tortola, British Virgin Islands 1110.

5. Plaintiff Memomi is incorporated under the laws of Delaware with places of business at 228 Hamilton Ave, Palo Alto, California 94301 and 81 Derech Yavne St, Rehovot, Israel 7634114.

6. Facebook, Inc. ("Facebook") is incorporated under the laws of Delaware, with its principal place of business at 1601 Willow Road, Menlo Park, California 94025.

7. Instagram, LLC ("Instagram"), a wholly-owned subsidiary of Facebook, is incorporated under the laws of Delaware with its principal place of business at 1601 Willow Road, Menlo Park, California 94025.

8. WhatsApp Inc. ("WhatsApp"), a wholly-owned subsidiary of Facebook, is incorporated under the laws of Delaware, with its principal place of business at 1601 Willow Road, Menlo Park, California 94025.

BACKGROUND

9. Salvador Nissi Vilcovsky and Ofer Saban, the inventors of the patents asserted in this lawsuit, and the founders of EyesMatch and Memomi, are pioneers in the field of digital

mirrors and related technologies for computerized appearance comparison.

10. In 2004, well before the digital “selfie” became a universal form of self-expression in social media, Mr. Vilcovsky recognized that the proliferation of computing devices (*e.g.*, laptops, PDAs, mobile phones) integrated with cameras made possible a revolutionary “digital mirror”, enabled by appropriate software, that could both duplicate the functioning of a physical mirror, and greatly expand its capabilities. Mr. Vilcovsky recognized that, with a true digital mirror, users would want, *inter alia*, to: see themselves onscreen, as if they were looking in a mirror; “try on” different clothes, makeup, hairstyle or other appearance changes; digitally alter their body appearance; and share their digital mirror images with others. Based on these insights, EyesMatch filed patent applications which covered the fundamental use case of taking pictures in front of a digital mirror, adding digital effects, and sharing those images with others. While EyesMatch envisioned the digital mirror as a novel and unrealized way to capture, recall, compare, and share self-images, it recognized that its innovations had wide applicability to fields such as video calling and video conferencing.

11. In 2012, Mr. Saban joined Mr. Vilcovsky in founding Memomi to productize the patented technologies. Together, they developed and patented further innovations in digital mirror and appearance comparison technologies, including: “smart” cameras that can follow subjects around a room from a stationary lens; “eye-matching” to keep a subject’s face centered in the field of view; and virtual pan and zoom.

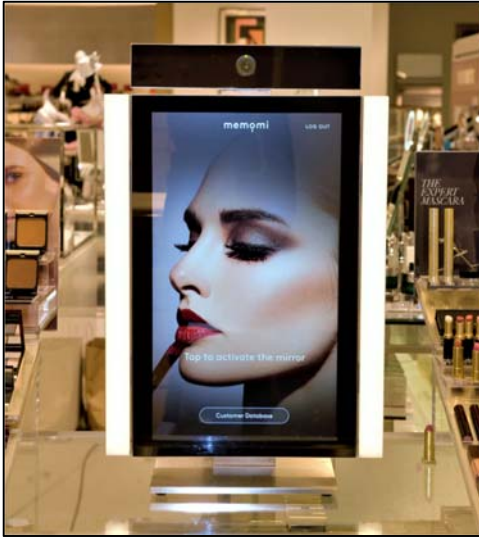
12. Today, Memomi’s patented products and technologies power a wide range of digital appearance comparison solutions that have been deployed by household names such as Sam’s Club, Walmart, Neiman Marcus, Luxottica, L’Oréal, Estee Lauder, Shiseido, DFS, Chanel, and LVMH, including virtual hair and makeup try-ons and virtual eyeglass fit and measurement.

13. Memomi’s patented products have received widespread recognition for their innovative nature, including awards¹ and acclamatory press coverage – demonstrating the novelty and non-conventional nature of the inventions claimed in the Patents-in-Suit. For example, Allure magazine described Memomi’s “Memory Makeover” digital mirror for Neiman Marcus stores as “pure genius,”² and Memomi’s digital mirror product has been featured on Good Morning America providing virtual makeup try-ons using the patented technologies.³

¹ See, e.g., <https://vimeo.com/133031019> (innovation competition held by Japanese department store Isetan Mitsukoshi); <https://bold-awards.com/salute-the-boldest-of-the-bold/> (Bold Awards’ “Boldest Innovator” award).

² <https://www.allure.com/story/neiman-marcus-high-tech-mirrors>. See also Tech Tackles the Fitting Room, <https://www.racked.com/2017/4/19/15199318/tech-fitting-room> (“How many times have you shared a dressing room selfie with friends to get their opinions? Now, says Scott Emmons, head of Neiman Marcus’s Innovation Lab, there is a better way. With a push of a button, a smart digital mirror in a Neiman Marcus fitting room can record how you look with a 360-degree view. . . . You can also use this mirror to record multiple try-ons of an outfit and then stack them alongside each other to see which one you like best. Neiman Marcus uses proprietary technology from tech company Memomi for its digital mirrors.”); “How Neiman Marcus innovates to adapt,” <https://nrf.com/blog/how-neiman-marcus-innovates-adapt> (“The Neiman Marcus iLab successfully introduced the “memory mirror,” a digital mirror that can record a customer from different angles in the fitting room. The customer can then compare multiple outfits side-by-side or even solicit advice from friends on social media. The experiment was so well received that Neiman Marcus is working to expand the platform’s technology. A newer development is the memory makeover mirror, which allows a store’s beauty specialists to record makeup sessions with customers and then share a video tutorial so they can create the look at home.”); “Upscale stores try ‘smart’ mirrors to help customers shop,” <https://nypost.com/2015/05/11/upscale-stores-try-smart-mirrors-to-help-customers-shop/> (“The patented MemoryMirror from a Palo Alto, California-based company called MemoMi is one of the most advanced in this so-called virtual dressing. . . .”).

³ <https://vimeo.com/217404337>.



<https://www.allure.com/story/neiman-marcus-high-tech-mirrors>



<https://www.racked.com/2017/4/19/15199318/tech-fitting-room>

14. To the extent marking or notice was required by 35 U.S.C. § 287, Plaintiffs have complied with the requirements of that statute by marking Memomi's products with the Asserted Patents pursuant to 35 U.S.C. § 287(a).

JURISDICTION AND VENUE

15. This is an action for patent infringement arising under the Patent Laws of the United States of America, Title 35, United States Code.

16. This Court has subject-matter jurisdiction over Plaintiffs' claims under 28 U.S.C. §§ 1331 and 1338(a).

17. Plaintiff Memomi is incorporated under the laws of the State of Delaware.

18. Defendant Facebook is incorporated under the laws of the State of Delaware.

19. This Court has general and specific personal jurisdiction over Facebook. Facebook has continuous and systematic business contacts with the State of Delaware and has committed acts of patent infringement within the State of Delaware and the District of Delaware. For example, Facebook, directly and/or through intermediaries (including advertising agencies and others),

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